

**TOWN PLANNING BOARD**

**Minutes of 481st Meeting of the  
Metro Planning Committee held at 9:00 a.m. on 11.1.2013**

**Present**

Director of Planning  
Mr. K.K. Ling

Chairman

Professor S.C. Wong

Vice-chairman

Professor P.P. Ho

Professor Eddie C.M. Hui

Mr. Laurence L.J. Li

Mr. Roger K.H. Luk

Mr. H.W. Cheung

Mr. Sunny L.K. Ho

Mr. Dominic K.K. Lam

Mr. Patrick H.T. Lau

Mr. Stephen H. B. Yau

Assistant Commissioner for Transport (Urban),  
Transport Department  
Mr. Albert Lee

Assistant Director (Environmental Assessment),  
Environmental Protection Department  
Mr. K. F. Tang

Assistant Director (Hong Kong), Lands Department  
Ms. Doris Chow

Deputy Director of Planning/District  
Miss Ophelia Y.S. Wong

Secretary

**Absent with Apologies**

Mr. Maurice W.M. Lee

Ms. Julia M.K. Lau

Mr. Clarence W.C. Leung

Ms. Bonnie J.Y. Chan

Chief Engineer (Works), Home Affairs Department  
Mr. Frankie W. P. Chou

**In Attendance**

Assistant Director of Planning/Board  
Ms. Christine K.C. Tse

Chief Town Planner/Town Planning Board  
Miss H.Y. Chu

Town Planner/Town Planning Board  
Ms. Karen K.W. Chan

**Agenda Item 1**

Confirmation of the Draft Minutes of the 480th MPC Meeting held on 21.12.2012

[Open Meeting]

1. The draft minutes of the 480th MPC meeting held on 21.12.2012 were confirmed without amendments.

**Agenda Item 2**

Matters Arising

[Open Meeting]

2. The Secretary reported that there were no matters arising.

**Tsuen Wan and West Kowloon District**

[Mr. Tom C.K. Yip, Senior Town Planner/Tsuen Wan and West Kowloon (STP/TWK), was invited to the meeting at this point.]

**Agenda Item 3**

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/K2/206                      Proposed Hotel and Minor Relaxation of Plot Ratio Restriction in  
“Residential (Group A)” zone, K.K. Centre,  
46-54 Temple Street, Yau Ma Tei  
(MPC Paper No. A/K2/206 )

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3. The Secretary reported that Atkins China Ltd. was one of the consultants for this application. Mr. Dominic K.K. Lam had declared an interest in this item as he had current business dealings with Atkins China Ltd.. As Mr. Lam was not involved in the proposed development, the Committee agreed that Mr. Lam could stay in the meeting.

### Presentation and Question Sessions

4. With the aid of a powerpoint, Mr. Tom C.K. Yip, STP/TWK, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed hotel (conversion of an existing 17-storey composite commercial/office building to provide 99 guestrooms) and minor relaxation of plot ratio restriction from 9 to 10.516;
- (c) departmental comments – concerned government departments had no objection to or adverse comments on the application as detailed in paragraph 8 of the Paper;
- (d) during the first three-week of the statutory publication period, no public comment was received and no local objection was received by the District Officer (Yau Tsim Mong); and
- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application based on the assessments set out in paragraph 10 of the Paper.

5. Members had no question on the application.

### Deliberation Session

6. After deliberation, the Committee decided to approve the application, on the terms of the application as submitted to the Town Planning Board (TPB). The permission should be valid until 11.1.2017, and after the said date, the permission should cease to have effect unless before the said date, the development permitted was commenced or the permission was renewed. The permission was subject to the following conditions :

- (a) the provision of fire service installations and water supplies for fire fighting to the satisfaction of the Director of Fire Services or of the TPB;

- (b) the submission of a Sewerage Impact Assessment to the satisfaction of the Director of Environmental Protection or of the TPB; and
- (c) in relation to (b) above, the implementation of the local sewerage upgrading/sewerage connection works identified in the Sewerage Impact Assessment to the satisfaction of the Director of Drainage Services or of the TPB.

7. The Committee also agreed to advise the applicant of the following :

- (a) the approval of the application did not imply that any proposal on gross floor area (GFA) concession for the proposed development would be approved/granted by the Building Authority. The applicant should approach the Buildings Department direct to obtain the necessary approval. If the GFA concession was not approved/granted by the Building Authority and major changes to the current scheme were required, a fresh planning application to the TPB might be required;
- (b) to note the comments of the District Lands Officer/Kowloon West, Lands Department that the proposed conversion of a hotel with cafeteria and bar did not comply with the lease conditions governing the site. The applicant should apply to his office for removing the offensive trades restriction by way of a licence or modification letter for the cafeteria and bar to be provided on 4/F in the proposed conversion. If approved, it would be subject to such terms and conditions considered appropriate by the Government including payment of administrative fee and premium to be assessed;
- (c) to note the comments of the Chief Building Surveyor/Kowloon, Buildings Department that the application for hotel concession under Building (Planning) Regulation (B(P)R) 23A would be considered upon submission of building plans subject to compliance with the criteria under Practice Notes for Authorized Persons and Registered Structural Engineers APP-40

and the proposal might not be in compliance with B(P)Rs 25, 30 and 72, etc;

- (d) to note the comments of the Director of Fire Services that the arrangement of emergency vehicular access should comply with Part VI of the Code of Practice for Means of Access for Fire Fighting and Rescue, which was administered by the Buildings Department. Detailed fire services requirements would be formulated upon receipt of formal submission of general building plans;
- (e) to note the comments of the Director of Environmental Protection to prepare and submit the Sewerage Impact Assessment as early as possible in view of the time required for the implementation of any required sewerage works;
- (f) to note the comments of the Assistant Commissioner for Transport that the Transport Department had the rights to impose, alter or cancel any parking, loading/unloading facilities and/or any no-stopping restrictions on all local roads, to cope with changing traffic conditions and needs. The frontage road space would not be reserved for any exclusive uses of the proposed development; and
- (g) to note the comments of the Chief Officer (Licensing Authority), Home Affairs Department that:
  - (i) the applicant should submit documentary evidence showing that the BA had granted prior approval for the proposed use when making an application under the Hotel and Guesthouse Accommodation Ordinance (HAGAO);
  - (ii) the proposed licence area should be physically connected; and
  - (iii) the licensing requirements would be formulated after inspections by his Building Safety Unit and Fire Safety Team upon receipt of an

application under HAGAO.

**Agenda Item 4**

**Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/K3/543                      Proposed Hotel and Minor Relaxation of Plot Ratio Restriction in  
“Residential (Group A)” zone, 7/F to 11/F, Mong Kok City Centre, 74-84  
Sai Yeung Choi Street South, Mong Kok  
(MPC Paper No. A/K3/543 )

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**Presentation and Question Sessions**

8.                      Mr. Tom C.K. Yip, STP/TWK, referred to page 13 of the Paper and said that the wording in advisory clauses (e) and (g) had to be amended to incorporate the latest comments tendered by government departments. In this regard, a replacement page for page 13 of the Paper was prepared and tabled for Members’ reference. With the aid of a powerpoint, Mr. Yip then presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed hotel (conversion of 7/F to 11/F of an existing 13-storey commercial building) and minor relaxation of plot ratio restriction from 9 to 9.393;
- (c) departmental comments – concerned government departments had no objection to or adverse comments on the application as detailed in paragraph 9 of the Paper;
- (d) during the statutory publication period on the application and further information submitted by the applicant, a total of five public comments were received. These comments which raised objection to the application were submitted by the owners of other premises in the subject building (i.e.

Mong Kok City Centre), a concern group i.e. Designing Hong Kong Ltd. and Owners' Incorporation of an adjacent residential building, i.e. Luen Hing Building. The main grounds of objection as provided in these comments were detailed in paragraph 9.3 of the Paper and summarized below:

- (i) the proposed development would be in breach of the Deed of Mutual Covenant and Management Agreement (DMC) of Mong Kok City Centre which expressly prohibited the use of the building for hotel, boarding house and lodging house uses. Relaxation of plot ratio would mean allowing trespassing of the common area of the subject building and an intrusion of the private rights of other owners of the building;
- (ii) the proposed 91 hotel rooms on 7/F to 11/F of the building would have adverse impacts on fire safety, lift and electricity capacity, drainage and water supply of the building. In particular, the owners of other premises of the building would be adversely affected if there was burst and blockage of the drainage due to the additional loading generated by the proposed hotel;
- (iii) the proposed hotel would cause nuisance to the existing students of the school on the 3/F and other users of the building as there were only two small lifts and a small G/F lobby to serve the whole building. People waiting for the lift would queue up along the public passage outside the building and this would seriously affect the nearby shops and the pedestrian traffic on the public passageway;
- (iv) Mong Kok was already suffering from traffic congestion and this would further deteriorate with the drop-off/pick-up of hotel guests adjacent to the proposed hotel. This would also have adverse impacts on the living environment and quality of life and the safety of children and elderly pedestrians; and



- (v) the proposed development would generate possible noise nuisances and security concerns; and
  
- (e) the Planning Department (PlanD)'s views – PlanD had no objection to the application based on the assessments set out in paragraph 10 of the Paper. From the land use point of view, the proposed development was considered not incompatible with other commercial uses in the building. Regarding the public comments on the adverse impacts of the proposed hotel on the fire safety, lift capacity, water supplies and drainage of the building, concerned government departments had no objection to or adverse comments on the application. Regarding the concern on adverse traffic impact on the surrounding areas, the Commissioner for Transport (C for T) had no objection to the application. C for T also advised that in view of the site constraints, small scale of the development and convenient location of the site, he had no adverse comments on the nil provision of internal parking facilities for the proposed hotel. Regarding the public comments that the DMC of the subject building prohibited the use of the building for hotel use, it was considered that the DMC were agreements between the owners of the building, which set out the rules to regulate the rights and liabilities of owners. The concerned issue should be sorted out among the owners of the building separately. In this regard, an advisory clause was proposed at paragraph 11.2(a) of the Paper requiring the applicant to take note of the restriction of the DMC and consult other owners of building to address their concern.

[Mr. Laurence L.Y. Li arrived to join the meeting at this point.]

9. A Member enquired about the size of the guestrooms of the proposed hotel. In response, Mr. Tom Yip said that the applicant did not provide such information in his submission. Given that the subject premises had a total gross floor area (GFA) of 1,778.7m<sup>2</sup> and would accommodate 91 guestrooms, it was estimated that these guestrooms would have an average size of about 19.5m<sup>2</sup> or 200sq.ft. However, this was only a rough estimate as the GFA of the common areas of the proposed hotel such as entrance lobby, corridors and staircases had not been discounted in the estimation of the room size.

10. A Member noted that the guests of the proposed hotel had to share the entrance, ground floor lobby, lifts and staircases with the other users of the same building. This Member was concerned that the proposed hotel would cause nuisance to the other users, in particular the students of the school on the 3/F of the subject building. In this regard, this Member enquired about the nature of the school and the courses offered by the school. In response, Mr. Yip said that the school offered a wide range of continuing education courses and vocational training courses including business English, accounting and book-keeping for mainly adult students. As these courses held throughout the day, the students would not come to the building at the same time and would not compete with the hotel guests in using the lifts. It was also noted that the electrical appliance shop occupying G/F to 2/F of the building had its own internal staircase for its customers. Mr. Yip also pointed out in a recent visit to the building, he noted that there was adequate lift service for the users though several floors of the building were currently vacant.

11. A Member enquired how the proposed hotel would contravene the DMC of the Mong Kok City Centre. In response, Mr. Yip said that two of the commenters had attached a copy of the DMC of the building in their comments on the application (Appendix IV of the Paper). With the aid of the visualizer, Mr. Yip showed Members paragraph 3.22 of the subject DMC, which stated that “Not to use or cause or permit any part of the Building or any Unit to be used for industrial purposes or for the purpose of hotel, boarding house, lodging house...”. He said that the DMC was a private contractual agreement among the owners of the building and was not a planning consideration under the current application. In this regard, should the Committee decide to approve the application, it was recommended to include an advisory clause reminding the applicant to take note of the restriction of the DMC of the building and consult other owners of the building with a view to addressing their concerns on the proposed conversion.

12. A Member said that the Board would normally not support a hotel development within a residential building, unless the hotel development was provided with a separate access so that the hotel users would not have to share access/ lifts with the residents and cause nuisance to them. This Member opined that the same requirement should also be applied to hotel development within a commercial building as hotel visitors would also cause nuisance to the other users of the building if they had to share the same access/lifts/staircases. In response, Mr. Tom Yip said that users of a commercial building did not reside in the

building. However, for a residential building, residents had to use the entrance, access and staircase much more frequently and hence would be adversely affected if there was no separate access for the hotel uses. That was why the Town Planning Board Guidelines for 'Designation of "Other Specified Uses" annotated "Mixed Use" ("OU(Mixed Use)") zone and application for development within "OU(Mixed Use)" zone under section 16 of the Town Planning Ordinance' stated that the residential and non-residential portions within a mixed use development/building should be physically segregated through appropriate building design, such as the provision of separate entrances/lift lobbies/staircases.

### Deliberation Session

13. A Member indicated no in-principle objection to the application. However, this Member opined that the concerns raised by the other owners of the building were not unreasonable and should be addressed by the applicant before the commencement of the hotel use. Hence, instead of including an advisory clause requiring the applicant to take note of the restriction of the DMC, this Member considered that it would be more appropriate to stipulate an approval condition requiring the applicant to sort out the DMC issue before the commencement of the hotel use. This could protect the interests of the other owners of the building. The above views were shared by another Member.

14. A Member quoted the example of the Liquor Licensing Board that in considering applications for liquor licence, the Liquor Licensing Board would take into account the DMC restriction in granting the liquor licence. This Member opined that for the subject application, the Board should take into account the comments and that the hotel use was in breach of the DMC. In order to safeguard the interests of the other owners of the building, it was more appropriate to stipulate an approval condition requiring the applicant to comply with the DMC before the commencement of the hotel use.

15. The Secretary said that it was not uncommon for the Board to receive public comments, raising objection to planning applications on the ground of non-compliance with DMC. However, the Board would normally not to take the DMC as a planning consideration since the DMC as a private contractual agreement among owners of the building. Should the Board decide to approve the application, the applicant would be advised to take note of the restriction of the DMC and to liaise with the other owners of the

building to sort out the disputes. Hence, the stipulation of an advisory clause as recommended in paragraph 11.2(a) of the Paper was in line with the Board's established practice.

16. A Member had no strong view as to whether an approval condition for the subject application requiring the applicant to sort out the DMC issue before the commencement of the hotel use would be stipulated. However, this Member did not agree if this became the Board's practice when considering similar applications in future. This Member opined that it was not appropriate for a statutory board to grant an approval which had to hinge on the approval(s) of another government department/statutory board. This would pose difficulties for the applicant to implement an approved scheme when approval was subject to approval by another party. This Member also said that the conditions set out in the DMC could be very complicated and the Board should not be involved in the interpretation of a DMC. This Member considered that the stipulation of an advisory clause was appropriate.

17. The Chairman said that it was the practice of the Board not to take the DMC as a planning consideration as it was a private contractual agreement among owners of a building. From the land use planning point of view, the proposed hotel use was considered not incompatible with the other commercial uses in the same building. As compared with a residential building, the users of a commercial building would be much less affected by the hotel visitors, even though they had to share the entrance, lifts and staircases. Moreover, the students of the schools were mainly adult students, who came to the building at different times of the day. The impact of the hotel use on the students would be insignificant.

18. A Member noted that the DMC of the subject building clearly stated that the proposed hotel use was prohibited. This Member enquired whether government departments could take actions to stop the change of use to hotel. Ms. Doris Chow, Assistant Director (Hong Kong) of the Lands Department, explained that DMC was a private contractual agreement among the co-owners of the building and the Government was not a party to the contract. Hence, the Government would not get involved in the administration of the DMC. If there was a breach of the DMC, owners could consult their legal advisors regarding the legal action that could be taken against the breach.

19. A Member opined that an advisory clause regarding the DMC matter should be

sufficient as the Board should not get involved in private contractual matters. This Member also drew an analogy to the granting of building plan approval under the Buildings Ordinance, under which the Building Authority would not take into account any private contracts among the owners.

20. A Member also agreed that the DMC was a private contractual agreement among the owners of the building and the Board should not take into account the DMC as a planning consideration in the subject application. However, this Member asked whether the other owners of the building were informed about the proposed hotel use. This Member opined that the Board should take into account the comments raised by other owners. Another Member shared the above views.

21. In response to the above enquiries, Mr. Tom Yip said that the applicant was the owner of the premises on 7/F to 11/F of the subject building. The owners of the same building should be aware of the application as the applicant had sent letters to notify other owners of the building so as to meet the owner's consent and notification requirement for making a planning application. PlanD had posted notice in the building and sent letters to the Owners' Corporation of the building to inform them about the application. In fact, some of the public comments on the application were submitted by the owners of the premises on G/F to 3/F. Mr. Yip also added that the GFA of the application premises was about 36% of the total GFA of the subject building.

22. The Vice-chairman shared the above views and noted that the applicant would have to apply for hotel licence upon the approval of the application by the Committee. The Vice-chairman enquired whether the licensing authority for hotel use would take into account the local views and/or the DMC in processing the licensing applications. In response, Mr. Tom Yip said that he had no such information in hand. However, he pointed out that the Chief Officer (Licensing Authority), Home Affairs Department (CO(LA), HAD) was consulted on the subject application. While CO(LA), HAD had no objection to the application, he reminded the applicant to submit a copy of the occupation permit for the proposed hotel when making an application under the Hotel and Guesthouse Accommodation Ordinance.

23. Ms. Doris Chow said that if a proposed development which contravened the

concerned lease was approved by the Board, the applicant would be reminded to apply to the LandsD for lease modification in order to implement the proposed development. The LandsD would act in the capacity of private landlord to process the proposed lease modification which, if approved, would be subject to such terms and conditions to be imposed by the LandsD at his discretion.

24. The Chairman concluded that Members generally had no in-principle objection to the application as the proposed hotel was not incompatible with other commercial uses within the commercial building. Members noted the commenters' concerns that the proposed hotel would cause adverse impacts in respect of fire safety, lift capacity, water supplies, traffic and drainage capacities. However, concerned government departments had no objection to or adverse comments on the application. As regards the concern on the proposed hotel use being in breach of the DMC, Members considered that DMC was a private contractual agreement among the owners of the building and the issue should be sorted out between the applicant and other owners separately. Hence, Members generally agreed that the Board's normal practice of stipulating an advisory clause regarding the DMC issue, instead of an approval condition, should be adopted for the current application.

25. The Secretary said that in considering the application, Members had raised a general issue as to whether the DMC should be taken into account by the Committee in the consideration of a planning application. These general concerns might arise again when similar applications were considered by the Board in future. To address these concerns, the Secretary suggested asking the Secretariat to undertake the following action: (i) to consult HAD, the licensing authority for hotel and guesthouse, if the DMC would be one of the considerations in granting of licence for hotel/guesthouse; and (ii) to seek legal advice from the Department of Justice (DoJ) as to whether compliance with DMC should be a planning consideration for planning applications. The Secretary would inform Members the advice from HAD and DoJ when available. Members agreed to the Secretary's suggested follow-up actions.

26. After further deliberation, the Committee decided to approve the application, on the terms of the application as submitted to the Town Planning Board (TPB). The permission should be valid until 11.1.2017, and after the said date, the permission should cease to have effect unless before the said date, the development permitted was commenced

or the permission was renewed. The permission was subject to the following conditions :

- (a) the provision of fire service installations and water supplies for fire fighting to the satisfaction of the Director of Fire Services or of the TPB;
- (b) the submission of a sewerage impact assessment to the satisfaction of the Director of Environmental Protection or of the TPB; and
- (c) the implementation of the local sewerage upgrading/sewerage connection works identified in the Sewerage Impact Assessment in planning condition (b) above to the satisfaction of the Director of Drainage Services or of the TPB.

27. The Committee also agreed to advise the applicant of the following :

- (a) the applicant was advised to take note of the restriction of the Deed of Mutual Covenant and Management Agreement of the subject building and consult other owners of the building with a view to addressing their concerns on the proposed conversion;
- (b) the approval of the application did not imply that any proposal on gross floor area (GFA) concession for the proposed development would be approved/granted by the Building Authority. The applicant should approach the Buildings Department direct to obtain the necessary approval. If the GFA concession was not approved/granted by the Building Authority and major changes to the current scheme were required, a fresh planning application to the Board might be required;
- (c) to note the comments of the Director of Environmental Protection to prepare and submit the Sewerage Impact Assessment as early as possible in view of the time required for the implementation of any required sewerage works;
- (d) to note the comments of the Commissioner for Transport that he had the

rights to impose, alter or cancel any parking, loading/unloading facilities and/or any no-stopping restrictions, etc. on all local roads, to cope with changing traffic conditions and needs. The applicant should not expect the Government to provide such facilities for use of the premises;

- (e) to note the comments of the Director of Fire Services that the premises should be protected by fire service installations in compliance with the Code of Practice for Minimum Fire Service Installations and Equipment;
- (f) to note the comments of the Chief Building Surveyor/Kowloon, Buildings Department that the application for hotel concession under Building (Planning) Regulation (B(P)R) 23A would be considered upon formal submission of building plans; compliance with B(P)Rs 25, 30 and 72 as well as Design Manual: Barrier Free Access 2008 was required; and centralized hot water supply and air-conditioning system have not been provided; and
- (g) to note the comments of the Chief Officer/Licensing Authority, Home Affairs Department that:
  - (i) the applicant should submit a copy of the occupation permit for proposed hotel to his office when making an application under the Hotel and Guesthouse Accommodation Ordinance (HAGAO);
  - (ii) the licensed area in one application must be physically connected; and
  - (iii) the licensing requirements would be formulated after inspections by his Building Safety Unit and Fire Safety Unit upon receipt of a licence application under HAGAO.

[The Chairman thanked Mr. Tom C.K. Yip, STP/TWK, for his attendance to answer Members' enquiries. He left the meeting at this point.]



**Agenda Item 5**

**Section 16 Application**

[Open Meeting]

A/K3/545 Proposed Flat, Shop and Services and Minor Relaxation of Building Height Restriction in “Residential (Group E)1” zone and an Area Shown as ‘Road’ 25-29 Kok Cheung Street, Tai Kok Tsui  
(MPC Paper No. A/K3/545 )

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28. The Secretary reported that Kenneth To & Associates Ltd. (KTA), Parsons Brinckerhoff (Asia) Ltd., Dennis Lau & Ng Chun Man Architects & Engineers (HK) Ltd., and CKM Asia Ltd. were the consultants for this application. The following Members had declared interests in this item:

- |                      |                                                                                                        |
|----------------------|--------------------------------------------------------------------------------------------------------|
| Mr. Dominic K.K. Lam | - had current business dealings with KTA and Parsons Brinckerhoff (Asia) Ltd.                          |
| Mr. Patrick H.T. Lau | - had current business dealings with KTA and Dennis Lau & Ng Chun Man Architects & Engineers (HK) Ltd. |

29. Professor S.C. Wong also declared an interest in this item since CKM Asia Ltd had financially sponsored some activities of the Institute of Transport Studies of the University of Hong Kong, of which he was the Director. Professor P.P. Ho also declared an interest in this item since Dennis Lau & Ng Chun Man Architects & Engineers (HK) Ltd. had given donations to the School of Architecture of the Chinese University of Hong Kong, of which he was the Director. Notwithstanding, as the Planning Department had requested to defer a consideration of the application, the Committee agreed that Members with interests declared could stay in the meeting.

30. The Secretary said that the application site was the subject of 10 representations against, amongst others, the amendments incorporated in the draft Mong Kok Outline Zoning Plan (OZP) No. S/K3/28 to impose building height restriction on the subject site. After giving consideration to the representations in April 2011, the Board decided not to uphold the representations. The draft Mong Kok OZP was the subject of two judicial review (JR)

applications against the Board's decisions not to uphold the representations. One of the JRs was lodged by Lindenford Ltd., Lindenford Ltd's JR was dismissed by the Court of First Instance (CFI) in September 2012, but Lindenford Ltd. had filed an appeal to the Court of Appeal against CFI's decision. The Court had ordered an interim stay of submission of the OZP to the Chief Executive in Council (CE in C) for approval pending the determination of the JRs. As such, the submission of the draft Mong Kok OZP to the CE in C for approval was withheld. As the draft Mong Kok OZP and the representations were yet to be submitted to the CE in C for consideration, according to the Town Planning Board Guidelines No. 33 on 'Deferment of Decision on Representations, Comments, Further Representations and Applications made under the Town Planning Ordinance', a decision on a section 16 application should be deferred if the application site was still subject to outstanding adverse representation yet to be submitted to the CE in C for consideration and the substance of the representation was relevant to the subject application. As the site was subject of a site-specific adverse representation yet to be submitted to and considered by the CE in C, it was recommended to defer a decision on the subject application.

31. After deliberation, the Committee decided to defer a decision on the application as requested by the Planning Department pending the submission of the draft Mong Kok Outline Zoning Plan to the Chief Executive in Council and its final decision.

[Mr. K.T. Ng, Senior Town Planner/Tsuen Wan and West Kowloon (STP/TWK), was invited to the meeting at this point.]

## **Agenda Item 6**

### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/TW/441                      Proposed Shop and Services (Real Estate Agency) in "Industrial" zone, B3-2, G/F, Superluck Industrial Centre (Phase 2), 57 Sha Tsui Road and 30-38 Tai Chung Road, Tsuen Wan  
(MPC Paper No. A/TW/441)

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**Presentation and Question Sessions**

32. Mr. K.T. Ng, STP/TWK, informed Members that there was a typing error on the first line of the advisory clause (b) in paragraph 12.2 of the Paper. This line should read “to note the comments of the District Lands Officer/Tsuen Wan and Kwai Tsing”. With the aid of a visualizer, Mr. Ng presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed ‘Shop and Services (Real Estate Agency)’ ;
- (c) departmental comments – concerned government departments had no objection to or adverse comments on the application as detailed in paragraph 9 of the Paper;
- (d) during the first three-week statutory publication period, four public comments were received. One comment was provided by a private individual who objected to the application on the ground that the ground floor of the subject building should be used for industrial-related purposes in order to facilitate industrial operations in the area. Another comment was also from a private individual who considered that there were too many real estate agencies in Tsuen Wan and there was no need to provide additional real estate agency in the area. The remaining two comments were from the Incorporated Owners of Superluck Industrial Centre, Phase 2 (the subject industrial building) who had no comment on the application, and a private individual who agreed to the proposed use;
- (e) the Planning Department (PlanD)’s views – PlanD had no objection to the application on a temporary basis for a period of three years based on the assessments as set out in paragraph 11 of the Paper:
  - (i) in order not to jeopardise the long-term planning intention of industrial use for the subject premises and to allow the Committee to monitor the supply and demand of industrial floor space in the area, a temporary approval of three years was recommended; and

- (ii) there was a public comment which considered that the ground floor premises should be used for industrial-related purposes to facilitate industrial operations in the area. In this regard, it was considered that the application was generally in line with the planning criteria for commercial use in an industrial building as set out in the Town Planning Board Guidelines No. 25D for ‘Use/Development within “Industrial” Zone’ and the concerned government departments, including the Director-General of Trade and Industry, had no objection to/adverse comments on the proposal. Besides, similar applications for ‘Shop and Services (Real Estate Agency)’ use had been approved for other ground floor workshop units in its vicinity. Furthermore, as the proposed ‘Shop and Services (Real Estate Agency)’ use was small in size, it would not result in a significant reduction of ground floor industrial floor spaces. As mentioned above, a temporary approval of three years was recommended. It was considered that the temporary nature of the ‘Shop and Services’ use would not have significant impact on the industrial operations in the area in the long term. In addition, the proposed real estate agency, might serve the property owners, potential buyers and renters of the industrial premises in the area. Regarding the public comment on the over provision of real estate agencies in the area, it was considered that the supply of a business service was related to its demand which was a market decision.

33. Members had no question on the application.

#### Deliberation Session

34. After deliberation, the Committee decided to approve the application on a temporary basis for a period of three years until 11.1.2016, on the terms of the application as submitted to the Town Planning Board (TPB) and subject to the following conditions :

- (a) the submission of fire service installations proposal in the application

premises within 6 months from the date of approval to the satisfaction of the Director of Fire Services or of the TPB by 11.7.2013;

- (b) in relation to (a) above, the implementation of fire service installations in the application premises within 9 months from the date of approval to the satisfaction of the Director of Fire Services or of the TPB by 11.10.2013; and
- (c) if any of the above planning conditions (a) or (b) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice.

35. The Committee also agreed to advise the applicant of the following :

- (a) a temporary approval of three years was given in order to allow the Committee to monitor the compliance of the approval conditions and the supply and demand of industrial floor space in the area to ensure that the long-term planning intention of industrial use for the subject premises would not be jeopardized;
- (b) to note the comments of the District Lands Officer/Tsuen Wan and Kwai Tsing, Lands Department (LandsD) that the proposed 'Shop and Services (Real Estate Agency)' use was not permitted under the lease. The owner should apply to the LandsD for a waiver and amendment of the "Canteen" waiver dated 8.10.2007. The waiver application would be considered by the LandsD acting in the capacity as landlord at its sole discretion. Any approval, if given, would be subject to such terms and conditions, including payment of waiver fee and administrative fee and such other terms, as considered appropriate by the Government;
- (c) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department that under the Buildings Ordinance, no person should commence or carry out any building works without having first obtained approval and consent from the Building Authority before

commencement of works unless they were exempted under section 41 of the Buildings Ordinance, or fell within minor works under the Building (Minor Works) Regulation;

- (d) to note the comments of the Director of Fire Services that a means of escape completely separated from the industrial portion should be available and detailed fire service requirements would be formulated upon receipt of formal submission of general building plans;
- (e) to note the comments of the Director of Food and Environmental Hygiene that he had no comment on the proposal as long as the provisions in the Public Health and Municipal Services Ordinance (Cap. 132) were complied with by the applicant; and
- (f) refer to the 'Guidance Note on Compliance with Planning Condition on Provision of Fire Safety Measures for Commercial Uses in Industrial Premises' for the information on the steps required to be followed in order to comply with the approval condition on the provision of fire service installations.

[The Chairman thanked Mr. K.T. Ng, STP/TWK, for his attendance to answer Members' enquiries. He left the meeting at this point.]

## Hong Kong District

### Agenda Item 7

#### Section 16 Application

[Open Meeting]

A/H3/408                      Proposed Hotel (Wholesale Conversion of an Existing Commercial Building) in “Residential (Group A)” zone, 181-183 Connaught Road West, Hong Kong  
(MPC Paper No. A/H3/408A )

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36.            The Secretary reported that Townland Consultants Ltd. and MVA Hong Kong Ltd. were the consultants for this application. The following Members had declared interests in this item:

- |                      |   |                                                                                     |
|----------------------|---|-------------------------------------------------------------------------------------|
| Mr. Dominic K.K. Lam | - | had current business dealings with Townland Consultants Ltd. and MVA Hong Kong Ltd. |
| Mr. Patrick H.T. Lau | - | had current business dealings with MVA Hong Kong Ltd.                               |
| Ms. Julia M.K. Lau   | - | had current business dealings with MVA Hong Kong Ltd.                               |

37.            The Committee noted that Ms. Julia M.K. Lau had tendered apology for unable to attend the meeting. As the applicant had requested to defer a consideration of the application, the Committee agreed that Messrs. Lam and Lau could stay in the meeting.

38.            The Secretary reported that on 28.12.2012, the applicant’s representative requested for a further deferment of the consideration of the application for one month so as to allow more time for the applicant to address the comments raised by the Transport Department regarding the provision of internal transport facilities.

39.            After deliberation, the Committee decided to defer a decision on the application as requested by the applicant pending the submission of further information from the applicant. The Committee agreed that the application should be submitted for its

consideration within two months from the date of receipt of further information from the applicant. The Committee also agreed to advise the applicant that a further period of one month was allowed for preparation of the submission of the further information, and as a total period of three months had been allowed, no further deferment would be granted unless under very special circumstances.

### **Kowloon District**

#### **Agenda Item 8**

##### **Section 16 Application**

[Open Meeting]

A/K10/242                      Proposed Flat, Shop and Services in “Residential (Group E)” zone,  
84 To Kwa Wan Road, Ma Tau Kok  
(MPC Paper No. A/K10/242 E)

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40.            The Secretary reported that LD Asia Ltd. (LD), Environ Hong Kong Ltd., (Environ), AECOM Asia Co. Ltd. (AECOM) and Sun Hung Kai Architects and Engineers Ltd (a subsidiary of Sun Hung Kai Properties Ltd. (SHKA)) were the consultants for this application. The following Members had declared interests in this item:

Professor S.C. Wong	- had current business dealings with AECOM
Ms. Julia M.K. Lau	- had current business dealings with Environ
Mr. Dominic K.K. Lam	- had current business dealings with AECOM and SHKP
Mr. Patrick H.T. Lau	- had current business dealings with LD, AECOM and SHKP

41.            The Committee noted that Ms. Julia M.K. Lau had tendered apology for unable to attend the meeting. As the applicant had requested to defer a consideration of the application, the Committee agreed that Messrs. Lam and Lau could stay in the meeting.



42. The Secretary also reported that on 20.12.2012, the applicant's representative requested the Board to defer making a decision on the application for another two months in order to allow more time for the preparation of further information to address the comments related to a hazard assessment.

43. The Secretary stated that the consideration of the application had been deferred five times since December 2011 to allow time for the applicant to prepare supplementary information/submission to address the comments of relevant government departments on issues related to noise, traffic, building façade and hazard assessment.

44. The Secretary continued to point out that in his letter of 20.12.2012, the applicant's representative explained that the applicant had made further effort to contact Towngas to seek its assistance for preparing the required hazard assessment. The applicant was now in close dialogue with Towngas and meeting was being arranged to further discuss with Towngas the input it could provide to assist the applicant's submission. As more time was needed for further liaising with Towngas, the applicant requested the Board to defer making a decision on the application for another two months.

45. After deliberation, the Committee decided to defer a decision on the application as requested by the applicant pending the submission of further information from the applicant. The Committee agreed that the application should be submitted for its consideration within two months from the date of receipt of further information from the applicant. The Committee also agreed to advise the applicant that a further period of two months were allowed for preparation of the submission of the further information, and as a total period of twelve months had been allowed, no further deferment would be granted unless under very special circumstances.

[Ms. S.H. Lam, Senior Town Planner/Kowloon (STP/K), was invited to the meeting at this point.]

## **Agenda Item 9**

### **Section 16 Application**

[Open Meeting (Presentation and Question Sessions Only)]

A/K18/295            Proposed School (Primary School) in “Residential (Group C) 1” zone,  
15 Kent Road, Kowloon Tong  
(MPC Paper No. A/K18/295A )

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46.            The Secretary reported that MVA Hong Kong Ltd. (MVA) was one of the consultants for this application. Ms. Julia M.K. Lau, Mr. Dominic K.K. Lam and Mr. Patrick H.T. Lau had current business dealings with MVA. The Committee noted that Ms. Julia M.K. Lau had tendered apology for unable to attend the meeting. As Messrs. Lam and Lau were not involved in the proposed development, the Committee agreed that they could be allowed to stay in the meeting.

### **Presentation and Question Sessions**

47.            Ms. S.H. Lam, STP/K, presented the application and covered the following aspects as detailed in the Paper :

- (a)    background to the application;
- (b)    the proposed primary school;
- (c)    departmental comments – government departments’ comments on the application were detailed in paragraph 8 of the Paper. Both the Commissioner for Transport (C for T) and Commissioner of Police (C of P) did not support the subject application as the proposed school would aggravate the existing traffic problem at Kent Road and the nearby roads. The District Officer (Kowloon City), Home Affairs Department (DO(KC), HAD) had reservation on the application taking into account the strong community sentiment as well as the bad traffic situation in the area.
- (d)    during the statutory publication period of the application and the further information submitted by the applicant, a total of 1,263 public comments

were received. Among these comments, a total of 1,253 objected to/made adverse comments, four supported/were in favour of and six provided comments on the application. The grounds of comments detailed in paragraph 9.1 of the Paper were summarized below:

Support/In Favour of the Application

- (i) the proposed school could help meet the increasing demand for school places and improve the standard of services in the area;
- (ii) the proposed school could provide better environment for students to study;
- (iii) the concern on traffic impact could be solved by encouraging parents to arrive earlier in school;

Objecting/Having Adverse Comments on the Application

- (iv) KTGE was primarily a low-density residential area and the proposed school was considered not in line with the planning intention of the area. Any proposed change in land use should consider the whole neighbourhood and the collective benefits of the residents;
- (v) there were already too many schools including kindergartens in Kowloon Tong which were more than sufficient to cater for the residents in the neighbourhood. The proposal would create competition with other international schools around and the existing operators would earn less money;
- (vi) the traffic along Kent Road was over-saturated. The proposed school would aggravate the already grave traffic situation at various times of the day, detrimental to inhabitants and road users of the area, and posing potential risk/danger to the safety of the pedestrians, especially students during the peak hours. Pick up/drop off of students of the proposed schools by private cars was expected, which would worsen the traffic conditions;

- (vii) the additional traffic management measures proposed by the school could not mitigate the traffic and related problems generated by the proposed school. The traffic impact assessment (TIA) submitted by the applicant had not addressed the traffic issues caused by the proposed school and some assumptions in the TIA were unrealistic;
- (viii) the proposed development would create air and noise pollution which would harm the health of the students and residents in the vicinity;
- (ix) the approval of the application would set an undesirable precedent for other similar applications in the area, the cumulative effect of which would affect the unique character of the residential neighbourhood in the vicinity;

Comments that had not indicated support or objection to the application

- (x) to further designate restricted zones and loading/unloading areas for school buses along Kent Road and Dorset Crescent to permit only school/nanny buses to pick up/ drop off; and
  - (xi) to strengthen the monitoring of the nearby traffic by the Police;
- (e) the Planning Department (PlanD)'s views – PlanD did not support the application based on the assessments set out in paragraph 11 of the Paper and were summarized below:

### Planning Intention

- (i) the planning intention of the “Residential (Group C)1” (“R(C)1”) zone was primarily for low-rise and low-density residential developments. The application to convert the existing 2-storey building within the site for a primary school was considered not incommensurate with the planning intention or incompatible with the surrounding land uses. While the proposed development intensity was under the plot ratio and building height permitted under the “R(C)1” zone, the possible adverse traffic impact that would be brought about by the proposed school use was the main concern;

### Traffic

- (ii) the site was located at Kent Road near its junction with Somerset Road and in close proximity to the Kowloon Tong MTR Station. Kent Road was currently the only vehicular access route to the Kowloon Tong Public Transport Interchange from both Waterloo Road and Cornwall Street, and there were already five schools located along Kent Road. The applicant had submitted a TIA and proposed traffic mitigation measures including: (1) arrangement of pick-up/drop-off of students by private cars/nanny vans at start-of-school and end-of-school time periods to be carried out strictly within the premises; (2) at end-of-school time, to allow pick-up of students by private cars first, to be followed by pick-up of students by nanny vans; and (3) arrangement of staff to implement the measures at reasonable time period before and after the school hours. Moreover, the applicant also proposed the school operating hours to be earlier from 7:30am to 3:15pm and after-class activity hours from 3:15pm to 4:30pm;
- (iii) however, C for T considered that the findings of the TIA were unacceptable. C for T pointed out that as observed on site, one traffic lane at Kent Road was fully occupied during peak hours by stationed vehicles for picking up/ dropping off school students. Kent Road was also congested with vehicles tailing back from the

downstream junctions. The influx of vehicles queuing up for picking up/dropping off students of the proposed school at Kent Road would significantly impede the traffic flows, the key commuting route towards Kowloon Tong MTR Station. The assessment on junction capacities in the TIA did not reflect the reduction of lane capacities by rampant pick-up/drop-off activities at Kent Road, thereby over-estimating the practical junction performance in the TIA, in particular the capacity of junction of Cornwall Street and Kent Road. Besides, according to the forecasted junction capacities in the TIA, the reserved capacity of junction of Cornwall Street and Kent Road would be reduced to 0% in year 2018 after commissioning of the proposed school. Such reduction of junction capacity was undesirable from traffic point of view. Worst still, the junction performance would in practice be reduced by the heavy kerbside activities along Kent Road;

- (iv) as regards the applicant's proposed modification to the pedestrian signalized crossing of Cornwall Street to staggered crossing with adjustment on associated pedestrian crossing time, C for T considered that the arrangement was undesirable according to current standard. Furthermore, there was no guarantee that the modification scheme could be implementable if strong objections were received. Regarding the traffic management arrangements proposed by the applicant, C for T casted doubts on their implementability as there was also no guarantee for students to join the school bus service or arrive by walking;
- (v) the proposed lay-bys for picking up/dropping off were designed based on an assumption that only 25% of students travel to the school by private cars. C for T doubted whether the actual performance of the lay-bys would be worse than the prediction in the TIA as the actual number of private cars was underestimated and consequently caused queuing up at roadside of Kent Road and thus caused obstruction to the traffic flows. As observed from the submitted swept path analysis, the proposed layout of car/taxi lay-bys was very limited and was undesirable for (1) preventing conflict of vehicles entering/leaving the

campus and (2) avoiding queuing up of vehicles at Kent Road. The proposed internal taxi picking up/setting down activity and nanny vans reversing movement was close to the proposed vehicular entrance. This would hinder vehicles entering the school and would cause queuing problem on Kent Road;

- (vi) as there were already five schools located at Kent Road, C of P pointed out that it was very congested during school peak hours due to the pick-up/drop-off activities of students by private cars as there were already five schools located at Kent Road and the road could not cope with another new school. Given that Kent Road was also used as the only vehicle access route to the Kowloon Tong Public Transport Interchange from both Waterloo Road and Cornwall Street, the traffic flow was very heavy. The proposed school would unavoidably create further kerbside activities at Kent Road. Although there was a proposed pick-up/ drop-off inside the school for private cars, the practicability to ensure the cars to pick-up/drop-off inside the school was in doubt. Besides, there were already numerous illegal parking and vehicle obstruction complaint cases in the area, especially during school peak hours. Additional influx of pick-up/drop-off activities of private cars at Kent Road would bring the congestion to an intolerable level. C of P also had reservation on the proposed traffic improvement scheme for the junction of Cornwall Street/ Kent Road;

#### Undesirable Precedent

- (vii) in view of the high volume of traffic in KTGE and to avoid further aggravating the present traffic conditions in the area, the Board had agreed in March 2011 to revise the Town Planning Board Guidelines No. 23 “Application for Kindergarten/Child Care Centre in KTGE under Section 16 of the Town Planning Ordinance” to require that any new application for kindergarten/child care centre use in KTGE area had to be supported by a TIA to examine possible traffic problems and to propose mitigation measures to tackle the problem.

Although the present application was for primary school use instead of kindergarten/child care centre, the traffic implication was similar. Approval of this application without adequately addressing the traffic problem would set an undesirable precedent for similar applications for school/kindergarten/child care centre in the area. The cumulative effect of approving such similar applications would aggravate the traffic congestion of the KTGE;

- (viii) an application (Application No. A/K18/294) for kindergarten/child care centre, though not for primary school, was rejected by the Committee on 15.6.2012 and by the Board on review on 26.10.2012 for the reasons that adverse traffic impacts were anticipated and no effective traffic mitigation measures were proposed to mitigate the impacts, and that approval of the application would set an undesirable precedent for similar applications; and

#### Public Comments

- (ix) regarding the public comments on the adverse traffic impact of the proposed school use, both C for T and C of P had expressed similar concerns. C for T considered that the proposals to further designate restricted zones and loading/unloading areas for school buses at Kent Road, as suggested by a commenter, might not be beneficial to the traffic condition at Kent Road as they might create difficulty in picking up/dropping off to existing schools. As such, the picking up/dropping off activities might be diverted to other roads near Kent Road and thus creating similar traffic problems on those roads. Regarding the concern on creating competition and affecting income of other school operators, it was not a material planning consideration.

48. In response to a Member's enquiry, Ms. S.H. Lam said that the applicant had not indicated in the submission whether the wall between the proposed school and the adjacent existing school (i.e. Yew Chung International School (Primary Section)) would be knocked down to improve the internal vehicular manoeuvring.



49. In response to another Member's enquiry, Ms. Lam said that there were three other Yew Chung International Schools (Primary Section) in the vicinity of the application site.

50. Ms. Doris Chow pointed out that there was a typing error in paragraph 8.1.1(a) of the Paper. The lot number of the application site should be NKIL 871. Members noted.

51. Noting the strong opposing views from the Transport Department (TD), the Vice-chairman enquired whether the applicant had discussed with TD on the proposed traffic mitigation measures for the proposed school. In response, Ms. Lam said that the PlanD had relayed all the departmental comments, including the comments of TD, to the applicant. The applicant had submitted further information after receiving C for T's comments, including a revised TIA and the undertaking of traffic management measures. Nevertheless, C for T and C of P still had adverse comments on the application.

52. The Vice-chairman also enquired whether the Education Department had promulgated any guidelines on site requirement for international schools. If the answer was positive, whether the proposed primary school under application met such requirement. In response, Ms. Lam said that the Hong Kong Planning Standards and Guidelines had set out the minimum site requirements for primary and secondary schools. However, she had no information in hand as to whether the Education Department had set out any guidelines on the requirement for international schools. Ms. Lam added that the Education Bureau considered that the proposed school could alleviate the shortage of international school places.

#### Deliberation Session

53. Mr. Albert Lee, the Assistant Commissioner for Transport (Urban), said that the TD did not support the subject application because the proposed school would aggravate the existing severe traffic problems at Kent Road and the nearby roads. TD considered that the TIA submitted by the applicant was not acceptable and the proposed traffic mitigation measures were not effective to mitigate the adverse traffic impacts arising from the proposed school.

54. After further deliberation, the Committee decided to reject the application. Members then went through the reasons for rejection as stated in paragraph 11 of the Paper and considered that they were appropriate. The reasons were :

- (a) the Traffic Impact Assessment submitted by the applicant was not acceptable;
- (b) the proposed development was located near the junction of Kent Road and Somerset Road and Kowloon Tong MTR Station with busy traffic. Adverse traffic impacts arising from the proposed development were anticipated and the applicant had failed to demonstrate that there would be effective traffic mitigation measures to mitigate the impacts; and
- (c) approval of the application without adequately addressing the traffic problem would set an undesirable precedent for similar applications in the area. The cumulative effect of approving such similar applications would aggravate the traffic condition of the Kowloon Tong Garden Estate.

[The Chairman thanked Ms. S.H. Lam, STP/K, for her attendance to answer Members' enquiries. She left the meeting at this point.]

### **Agenda Item 10**

#### **Section 16 Application**

[Open Meeting]

A/K18/297                      Proposed Hotel Development and Minor Relaxation of Building Height Restriction to allow for One Storey of Basement for Two Carparking Spaces, One Loading/Unloading Bay and Two Ancillary Plant Rooms Use in "Residential (Group C) 1" Zone and an Area Shown as 'Road' 147 Waterloo Road and Adjoining Government Land, Kowloon Tong  
(MPC Paper No. A/K18/297)

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55. The Secretary also reported that on 24.12.2012, the applicant's representative requested the Board to defer making a decision on the application for a period of one month

in order to allow more time for the applicant to address additional government departments' comments.

56. After deliberation, the Committee decided to defer a decision on the application as requested by the applicant pending the submission of further information from the applicant. The Committee agreed that the application should be submitted for its consideration within two months from the date of receipt of further information from the applicant. The Committee also agreed to advise the applicant that a further period of one month was allowed for preparation of the submission of the further information, and no further deferment would be granted unless under very special circumstances.

**Agenda Item 11**

Any Other Business

57. There being no other business, the meeting closed at 10:30 a.m..